

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY B. LONERO,

Plaintiff,

v.

Case No. 16-14279
Honorable Linda V. Parker

STEVE KING, GREGORY HARTUNIAN,
MARK ZUPIC, and JOHN DOE OFFICERS 1-18,

Defendants.

_____/

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S REPORTS
AND RECOMMENDATIONS; (2) DENYING WITHOUT PREJUDICE
DEFENDANTS' MOTION TO DISMISS; (3) DISMISSING ACTION PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 41; AND (4) AWARDING COSTS
TO DEFENDANTS**

Plaintiff, through counsel, filed this lawsuit on December 7, 2016, alleging that Defendants violated his civil rights. The matter is now before the Court due to Plaintiff's failure to respond to Defendants' discovery requests, precipitating Defendants' filing of a motion to dismiss (ECF No. 27) and a motion to compel discovery. (ECF No. 22.) Plaintiff failed to respond to both motions. This Court referred the motions to Magistrate Judge Mona K. Majzoub for a hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A) or a report and recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B).

On December 4, 2017, Magistrate Judge Majzoub issued a decision granting Defendants' motion to compel. (ECF No. 31.) Magistrate Judge Majzoub noted in her decision that Plaintiff's counsel stipulated to an order entered by the Court on June 20, 2017, compelling Plaintiff to serve complete discovery requests on or before July 5, 2017. (*See id.* at Pg ID 228, citing ECF No. 20.) Magistrate Judge Majzoub ordered Plaintiff to provide full and complete responses within fourteen days of her order. (*Id.*) She also found an award of sanctions in favor of Defendants' counsel appropriate given Plaintiff's failure to provide discovery responses by the deadline and an explanation for failing to respond. (*Id.*) Magistrate Judge Majzoub instructed Defendants to submit a Bill of Costs itemizing the reasonable expenses and attorney's fees they incurred as a result of bringing their motion to compel. (*Id.*)

At the conclusion of her order, Magistrate Judge Majzoub informed the parties that they had fourteen days from the date of the order to file an appeal. (*Id.* at Pg ID 229.) Neither party appealed the decision.

Also on December 4, 2017, Magistrate Judge Majzoub issued an R&R, recommending that this Court deny without prejudice Defendants' motion to dismiss. (ECF No. 32.) Magistrate Judge Majzoub also recommended, however, that the Court dismiss the matter pursuant to Rule 41 of the Federal Rules of Civil Procedure if Plaintiff failed to comply with her order compelling his response to Defendants' discovery requests. (*Id.*) At the conclusion of the R&R, Magistrate Judge Majzoub informs the parties that

they must file any objections to the R&R within fourteen days. (*Id.* at Pg ID 234.) No objections have been filed.

On December 14, 2017, Defendants filed a Bill of Costs pursuant to Magistrate Judge Majzoub's order on their motion to compel. (ECF No. 33.) On December 21, 2017, Magistrate Judge Majzoub issued an R&R recommending that the Court award attorney's fees to Defendants in the amount of \$705.00 payable by Plaintiff to Defendant's counsel within twenty-one days. (ECF No. 34.) This award is based on the Bill of Costs reflecting that counsel expended 4.7 hours, at an hourly rate of \$150.00, in connection with the motion to compel. (*Id.*, citing ECF No. 33.)

Finally, on December 21, 2017, Defendants filed a notice informing the Court that Plaintiff still had not complied with their discovery requests as instructed in Magistrate Judge Majzoub's order granting their motion to compel. (ECF No. 35.)

The Court has carefully reviewed Magistrate Judge Majzoub's decisions and concurs with her conclusions. The Court therefore adopts the R&Rs Magistrate Judge Majzoub entered on December 4 and 21, 2017.

Accordingly,

IT IS ORDERED that Plaintiff's Complaint against Defendants is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b);

IT IS FURTHER ORDERED that Defendants are awarded attorney's fees in the amount of \$705.00, which Plaintiff shall pay to Defendants' counsel within twenty-one (21) days of this Opinion and Order as follows:

Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: January 5, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, January 5, 2018, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager